

UNCLASSIFIED

guantanamo

RECEIVED

06 JUL 2004

AMBASSADORS OFFICE

RELEASED IN FULL



AMNESTY
INTERNATIONAL
UNITED KINGDOM

FAH:
PA
CC: PD
EG
HP
QG/BB

PAGES MISSING

George W. Bush
The President
The White House
Office of the President
1600 Pennsylvania Avenue
Washington DC 20500
USA

Amnesty International
UK Section
99-119 Rosebery Avenue
London EC1R 4RE
Tel: 020 7814 6200
Fax: 020 7833 1510
Web: www.amnesty.org.uk

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: ARCHIE M BOLSTER
DATE/CASE ID: 29 OCT 2008 200706444

R284

Dear Mr President,

The world is watching as your administration responds to the most recent evidence of torture and degrading treatment of Iraqis at the hands of US personnel. While Amnesty International welcomes official statements that the allegations are being taken seriously, the ultimate proof of this will be in actions not words. In this regard, your government's record in the context of "war on terror" detentions gives cause for concern, as fundamental principles of law and human rights continue to be violated despite the administration's stated commitment to these principles.

Amnesty International recalls your statement on 26 June 2003, made on the occasion of the United Nations International Day in Support of Victims of Torture, in which you said that "the United States is committed to the worldwide elimination of torture and we are leading this fight by example". The organization urges you now to ensure that the USA fully meets its international obligations, including as a state party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to investigate all allegations of torture and ill-treatment, publish all findings, prosecute all perpetrators, compensate all victims, and prevent any future torture or cruel, inhuman or degrading treatment. We call on the USA to open the doors of its detention facilities in Iraq, Afghanistan, Guantánamo Bay, and at undisclosed locations elsewhere, to independent bodies, including visits by United Nations Special Rapporteurs.

In July 2003, Amnesty International sent your government a *Memorandum on Concerns Relating to Law and Order* in Iraq. The Memorandum included allegations of torture and ill-treatment of Iraqi detainees by US and Coalition forces. The allegations included beatings, electric shocks, sleep deprivation, hooding, and prolonged forced standing and kneeling. We have never received a response or any indication from the administration or the Coalition Provisional Authority that an investigation took place. Likewise, we have never received a response to the *Memorandum to the US Government on the rights of people in US custody in Afghanistan and Guantánamo Bay* which we sent to you in April 2002, and which also raised concerns about questions and allegations of torture and ill-treatment.

The military investigation in Iraq headed by Major General Antonio Taguba found "systemic and illegal abuse of detainees" in the Abu Ghraib facility (Baghdad Central Confinement Facility, BCCF) between August 2003 and February 2004, and concluded that soldiers had "committed egregious acts and grave breaches of international law at Abu Ghraib/BCCF and Camp Bucca, Iraq". Amnesty International is concerned that the Taguba report was not intended for public release, and that the administration's current response has only come once the report and the photographic evidence came into the public domain.

At the Department of Defense news briefing on 4 May 2004, Secretary of Defense Rumsfeld said that he was "stunned" by the allegations. In one of several statements apparently downplaying the seriousness of the allegations, however, he added that his "impression is that what has been charged so far is abuse, which I believe technically is different from torture". Amnesty International stresses that the "numerous incidents of sadistic, blatant, and wanton criminal abuse" found by the Taguba investigation constitute acts of torture or

UNCLASSIFIED

UNCLASSIFIED

Mohammad was held incommunicado. He was given no opportunity to challenge the lawfulness of his detention. He had no lawyer, no access to his family, and was not brought before any court, including the "competent tribunal" envisaged by the Geneva Conventions to determine prisoner status in time of war. He never met a delegate from the International Committee of the Red Cross (ICRC) either. During more than a year in Guantánamo he says he met an ICRC delegate once, on the first day.

Last month in Yemen, Amnesty International spoke with another former Guantánamo prisoner, Walid al-Qadasi. He recalled his time in a secret detention facility in Kabul, interrogated by US agents. He said that the first night of interrogation had been coined by the prisoners as "the black night". He told Amnesty International that: "They cut our clothes with scissors, left us naked and took photos of us, before they gave us Afghan clothes to wear. They then handcuffed our hands behind our backs, blindfolded us and started interrogating us... They threatened me with death, accusing me of belonging to *al-Qa'ida*. They put us in an underground cell measuring approximately two metres by three metres. There were ten of us in the cell. We spent three months in the cell... During the three month period in the cell, we were not allowed outside into the open air." He alleged that the detainees were subjected to sleep deprivation, including by the use of loud music.

Incommunicado detention facilitates torture and ill-treatment. In his report to the UN Commission on Human Rights in 2004, the Special Rapporteur on torture "reiterates the recommendation of his two predecessors and urges all States to declare incommunicado detention illegal". The Special Rapporteur added that "incommunicado detention is aggravated when individuals are held in secret places of detention" and that "it should be a punishable offence for any official to hold a person in a secret and/or unofficial place of detention".

The USA cannot claim to be leading the struggle against torture by example, when the example it is setting is one of using prolonged incommunicado detention, including in undisclosed locations. Transparency, access and accountability are the most effective measures against torture and ill-treatment. The USA should employ these measures and truly lead by example.

Amnesty International has previously expressed concern about the mixed messages which the US government has sent regarding its commitment to international human rights standards. In June 2003, the administration issued a strong statement that government policy was to "comply with all of its legal obligations in its treatment of detainees, and in particular with legal obligations prohibiting torture". At the same time it has failed to comply with the Geneva Conventions with regard to the Guantánamo detainees. When the USA unilaterally decides whether or not to affirm the rights of individuals protected by international treaties and agreements, this may send a message to troops and others that the government is set on a course in which international agreements can be ignored or set aside at the discretion of the executive for the sake of expediency.

Intelligence and interrogation

Amnesty International has also recently spoken to a person who has worked in Guantánamo who has said that most if not all the detainees he had contact with there (approximately 40) had alleged that they were physically abused in Kandahar or Bagram. Based on this knowledge, this person expressed no surprise at the recent evidence emerging from Iraq, and stated that the abuse in Afghanistan appeared to be part of softening up detainees for interrogation and detention.

The Taguba report presents evidence that the abuse allegedly inflicted on the detainees in Iraq followed requests from military intelligence and other government interrogators that the military police (MP) guards in the prison "set physical and mental conditions for favourable interrogation of witnesses". Guards alleged that military intelligence personnel had given instructions including "loosen this guy up for us", "make sure he has a bad night"; "make sure he gets the treatment"; and "Good job, they're breaking down real fast. They answer every question. They're giving out good information, Finally, and Keep up the good work. Stuff like that."

At a Coalition Provisional Authority Briefing in Iraq on 4 May 2004, Major General Geoffrey Miller stated that while physical contact between interrogator and detainees is prohibited, "sleep deprivation and stress positions and all that could be used. But they must be authorized". The United Nations Committee against Torture, the expert body established by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has expressly held that restraining detainees in very painful positions, hooding, threats, and prolonged sleep deprivation are methods of interrogation which violate the prohibition on torture and cruel, inhuman or degrading treatment.

UNCLASSIFIED

UNCLASSIFIED

Amnesty International's recommendations

Amnesty International urges the US Government to:

- investigate the allegations at Abu Ghraib prison, Iraq, and other detention facilities to establish whether war crimes have been committed and ensure accountability at the highest level;
- bring to justice those responsible for war crimes and other violations in accordance with the USA's obligations under international and US law. Such investigations should not just cover the direct perpetrators, but must include the higher chain of command responsibility;
- initiate investigations into all other allegations of abuse of detainees held in US custody in Iraq, Afghanistan and elsewhere;
- suspend from duties any public officials involved pending the outcome of the investigation and any subsequent legal or disciplinary proceedings;
- ensure, through appropriate policies, training and oversight, that torture or other cruel, inhuman or degrading treatment will not be tolerated. All detainees in US custody must be treated humanely and in accordance with US obligations under international human rights and humanitarian law;
- launch a full investigation into interrogation practices of detainees in US custody wherever they are held around the world and make the findings public;
- prohibit all techniques during interrogations which violate the prohibition against torture or other cruel, inhuman or degrading treatment. These include such techniques as holding detainees naked, making them assume painful positions, sleep deprivation, exposure to extreme cold, and hooding;
- ensure that private contractors uphold US and international law, and that they receive adequate training on human rights practices and protections.
- end the practice of incommunicado detention. Provide immediate access to detainees to their families and lawyers, ensure regular access to the ICRC in all places of detention and access for independent human rights organizations, including representatives of Amnesty International, into detention facilities;
- invite the United Nations experts covering torture and arbitrary detention to immediately visit US detention facilities in Iraq and wherever else they may seek such a visit.
- make use of the services of the International Humanitarian Fact-Finding Commission provided for by Article 90 of Additional Protocol I of the Geneva Conventions to look into the allegations of abuse and related US investigations.
- ensure that any victims of torture or inhumane treatment receive full reparations, including compensation, as required under international law.

I trust that you will give due consideration to the concerns raised in this letter.

Yours sincerely

Irene Khan

Secretary General
Amnesty International

UNCLASSIFIED